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JUL - 9 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

July 8, 1997

Mr. William Caton
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

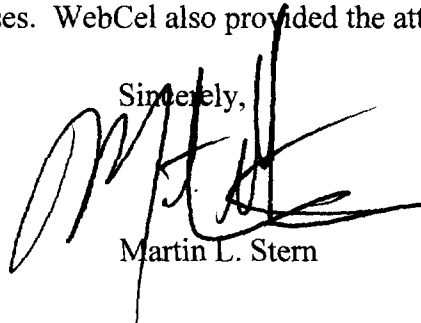
DOCKET FILE COPY ORIGINAL

Re: Notice of Ex Parte Presentation, CC Docket No. 92-297, *et al.*

Dear Mr. Caton:

Pursuant to 47 C.F.R. § 1.1206(a)(2), WebCel Communications, Inc. ("WebCel") is filing with the Secretary an original and one copy of this notice of an ex parte presentation in the above-captioned proceeding. On July 8, 1997, David Mallof, President of WebCel, John Audet, Vice President of Financial Analysis and Business Planning, and I met with Rosalind Allen, John Cimko, Nancy Boocker and Diane Conley of the Wireless Telecommunications Bureau. At this meeting, we discussed WebCel's view, as set out more fully in its Petition for Partial Reconsideration filed in this docket, that the LMDS designated entity rules should include a category for very small businesses. WebCel also provided the attached handouts.

Sincerely,



Martin L. Stern

Attachments

cc: Rosalind Allen
John Cimko
Nancy Boocker
Diane Conley

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NATIONAL VENTURE CAPITAL ASSOCIATION

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July 7, 1997

The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Re: Need for LMDS Very Small Business Category & Asset Test

Dear Chairman Hundt:

On behalf of the National Venture Capital Association ("NVCA"), I am writing to express our opinion about certain spectrum auction provisions in the Rules for Designated Entities recently adopted for the Local Multi-Point Distribution Service ("LMDS").

The National Venture Capital Association consists of over 240 professional venture capital firms which invest over eighty percent of the professional venture capital each year in America's emerging companies. In 1996 over \$10 billion in venture capital was invested in U.S. based companies, the vast majority of which are in the information technology and life sciences fields. In fact, in the communications and networking sector of the information technology field, \$2.5 billion was invested. This subset of information technology includes areas such as modems, computer networking, fiber optics, pocket paging, teleconferencing, broadcasting, telephone equipment and cellular phones. It is a tremendously important sector of venture capital investment. It is for this reason that we submit the following statement.

LMDS may well turn out to be one of the best new venture opportunities for locally-owned small businesses and entrepreneurial start-ups to enter the telecommunications industry. Since nationwide roaming is not required, and since national branding is not essential for success in each local marketplace, we believe qualified entrepreneurs and very small businesses can be successful with only one or a few Basic Trading Area licenses. Because it is a stationary service, cell sites and network infrastructure can be deployed gradually to match revenue generation. Consequently, the initial capital-raising requirement for such an entrepreneurial undertaking, in one or a few markets, is not formidable. This is in clear contrast to the inherently mobile Personal Communications Service ("PCS"), where service requirements may necessitate national service area "footprints," national branding, and considerable up-front capital spending for large geographic build out before customer acquisition can ever begin.

It is our understanding that the FCC last requested formal public comment on Designated Entity (DE) issues for LMDS, including bidding preferences and repayment terms, in July of 1995 in the Third Notice of Proposed Rulemaking. In the nearly two years since that Notice, both the government and the capital markets have acquired much new learning as a result of the PCS C-Block's aggressive bidding assumptions and perceived overpayment, and the F-Block's later contrasting success. To our knowledge, every auction with DE participation has included a Very Small Business Category (or something close to it) except, interestingly, in the troubled C-Block itself. Other upcoming auctions, such as the 220 MHz block expected later this year, already have a Very Small Business Category established.

The NVCA writes to ask the FCC to consider implementing the schedule of bidding credits and payment terms consistent with the Order, Memorandum Opinion and Order and Notice of Proposed Rulemaking in the matter of Amendment of Part 1 of the Commission's Rules - Competitive Bidding, released February 28th, 1997. (See WT Docket Number 97-82, pages 19-26). It appears that some of the provisions considered in the aforementioned Order were used in crafting the "small business" categories, bidding credits, and preferential payment plans for LMDS. However, the final LMDS Rules omit important provisions for very small businesses and the unique cost-of-capital burdens that true entrepreneurs face.

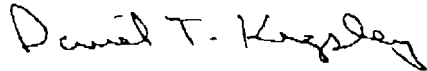
Put another way, the small business category now in the LMDS Order lumps true start-up entrepreneurial businesses with much larger, already well-capitalized companies. Some of these companies already hold billions of dollars worth of other spectrum and are eligible to bid on LMDS at the most favorable preference terms. Thus, the current small business category does not achieve the result mandated by Congress: to level the playing field and eliminate the critical cost-of-capital barriers for entrepreneurs. We fear that truly entrepreneurial enterprises with excellent, differentiated business plans and adequate venture financing, who otherwise would succeed in building local LMDS businesses, will be eclipsed at auction by much larger entities that currently qualify for the same co-mingled level of preference.

We also write to encourage the Commission to include some form of asset test, at least at the \$500 million level used by the FCC in other auctions. An asset test would help to ensure that only bona-fide new ventures, not established players, qualify for the highest economic preferences. Moreover, by restricting the ability of larger established companies to qualify for the most preferential Designated Entity status, it is more likely that Congress' directive, that entrepreneurs and very small businesses be given a fair chance to compete in spectrum-based telecommunications and media enterprises, will be faithfully executed.

One final note is that the LMDS Order does not impose traditional build out requirements. We believe that by getting LMDS licenses into the hands of true entrepreneurs who are the most likely to build out and not hold (i.e. warehouse) spectrum, the FCC will meet Congressional intent to facilitate the entrance of new competitors into local telecommunications.

The LMDS service holds much promise to increase local competition and to create new jobs. We believe that the recommendations proposed herein will help to ensure that small businesses and entrepreneurs will be part of the process.

Sincerely,

A handwritten signature in dark ink, appearing to read "Daniel T. Kingsley". The signature is fluid and cursive, with the first name "Daniel" being more prominent.

Daniel T. Kingsley
Executive Director

Cc: Hon. Rachelle B. Chong
Hon. Susan B. Ness
Hon. James H. Quello
Mr. William Kennard, General Counsel
Mr. Daniel Python, Wireless Bureau Chief
Ms. Rosalind K. Allen, Wireless Bureau
Mr. John Cimko, Wireless Bureau, Policy Division
Ms. Catherine Sandoval, Office of Communications Business Opportunitess

Table 1
Designated Entity Preferences

Proposed in Docket 97-82

Revenues (millions)	Interest Rate	Terms	Bid Discount (%)
< 3.0	T-Note	2 Yr Int Only, 3-10 P&I	25.0%
< 15.0	T-Note + 1.5%	2 Yr Int Only, 3-10 P&I	15.0%
< 40.0	T-Note + 2.5%	2 Yr Int Only, 3-10 P&I	10.0%
< 75.0	T-Note + 2.5%	1-10 P&I	
< 125.0	T-Note + 3.5%	1-10 P&I	

LMDS R&O

Revenues (millions)	Interest Rate	Terms	Bid Discount (%)
< 40.0	T-Note + 2.5%	2 Yr Int Only, 3-10 P&I	25.0%
< 75.0	T-Note + 2.5%	1-10 P&I	15.0%

Table 2

Cost of Capital

Marketable Majority Fair Market Value /1	Equity & Risk Free Rates	Equity Rate	Debt Rate	WACC 1:1 D/E	<u>Cost of Capital Advantage</u>	
					Incremental	Cumulative
\$4,050,000	24.40%	19.38%	11.75%	15.73%		
\$6,750,000	23.60%	18.58%	10.75%	15.03%	0.70%	0.70%
\$13,500,000	22.40%	17.38%	10.25%	14.28%	0.75%	1.45%
\$67,500,000	19.80%	14.78%	9.75%	12.83%	1.45%	2.90%
\$135,000,000	18.70%	13.68%	8.75%	11.98%	0.85%	3.75%
\$1,350,000,000	14.90%	9.88%	7.85%	9.81%	2.17%	5.92%
\$13,500,000,000	11.10%	6.08%	7.35%	7.76%	2.05%	7.97%

Notes:

1. For discussion of equity premiums, see Jay B. Abrams August 1994 issue of Valuation, Volume 39 No. 2, pg. 14, American Soc of Appraisers

Table 3
Rate on Equity Derived from
Table of Equity Premia Based on FMV /3

Regression Results Marketable Minority FMV	Marketable Majority FMV	Implied R	Implied Equity Premium
\$1	\$1	48.80%	43.78%
\$1,000	\$1,350	37.50%	32.48%
\$5,000	\$6,750	34.90%	29.88%
\$10,000	\$13,500	33.70%	28.68%
\$30,000	\$40,500	31.90%	26.88%
\$50,000	\$67,500	31.10%	26.08%
\$100,000	\$135,000	30.00%	24.98%
\$300,000	\$405,000	28.20%	23.18%
\$500,000	\$675,000	27.30%	22.28%
\$1,000,000	\$1,350,000	26.20%	21.18%
\$3,000,000	\$4,050,000	24.40%	19.38%
\$5,000,000	\$6,750,000	23.60%	18.58%
\$10,000,000	\$13,500,000	22.40%	17.38%
\$50,000,000	\$67,500,000	19.80%	14.78%
\$100,000,000	\$135,000,000	18.70%	13.68%
\$1,000,000,000	\$1,350,000,000	14.90%	9.88%
\$10,000,000,000	\$13,500,000,000	11.10%	6.08%

Notes:

1. Majority Interest Premium 35.00%
2. Long-Term Government Bond Rate [Historical] 5.02%
3. For discussion of equity premiums, see Jay B. Abrams August 1994 issue of Valuation, Volume 39 No. 2, pg. 14, American Soc of Appraisers